

REMARKS

The present amendment is submitted in response to the Office Action dated June 5, 2002, which set a three-month period for response, making this amendment due by September 5, 2002.

Claims 1 through 9 are pending in this application.

In the Office Action, claim 9 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 1, 2, 4-7 and 9 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,172,522 to Jares in view of GB 2080920 to Minamide et al. Claim 8 was rejected under 35 U.S.C. 103(a) as being unpatentable over Jares in view of Minamide et al as applied to claim 1 above, and further in view of U.S. Patent No. 5,697,456 to Radle et al.

Turning first to the rejection of claim 9 as indefinite, the Applicants have amended claim 9 to provide proper antecedent basis for the term "group".

With regard to the substantive rejection of the claims, the Applicants respectfully disagree that the cited reference combinations render obvious the present invention as defined in the pending claims. However, the Applicants have amended claim 1 to more clearly distinguish the present invention over these reference combinations.

Specifically, amended claim 1 provides that the safety element is movable "to avoid transmission of vibrations through the safety element during predeterminable operation". Claim 2 was also amended, and now defines that the safety element is formed as a "flexurally non-rigid part". Support for the amendment to claim 1 can be found in the specification on page 3, lines 15-17.

The change to claim 2 more precisely defines the nature of the safety element, support for which can be found on page 4, lines 2-5.

The device defined in claim 1 of the present application comprises a gripping part, a safety element, and a mounting part, in which the safety element connects the gripping part with the mounting part.

The patent to Minamidate discloses an arrangement comprising a gripping part 6, a tie-rod 3, and a mounting part 7, in which the tie-rod 3 does not connect the gripping part 6 with the mounting part 7. The tie-rod passes through a wide boring of the mounting part 7, which it does not touch.

In addition, the arrangement disclosed by Minamidate has the objective of providing a handle that is rigidly connected to a vibration source and is capable of damping hazardous vibrations without the use of elastic material. The term "vibration damping body", as used in the Minamidate reference and defined specifically in column 1, lines 52-54, indicates a member with sufficient mass to significantly affect vibration characteristics. This is an important feature that must be considered when studying the Minamidate patent.

Thus, in the handle shown in Figure 1 of the Minamidate reference, the tie-rod 3 serves to transmit vibrations to the mass 4 secured to this tie-rod. This structure, then, differs markedly from the combination of an elastic vibration-damping element and an additional safety element employed in the handle structure of the present invention, as defined in amended claim 1.

The tie-rod disclosed in Minamidate may not be movable in the sense of not transmitting vibrations. The disclosure of Minamidate is very clear on this

point. At page 2, lines 35-40, the following is disclosed: "The vibration...will then be transmitted via the tie-rod 3 to the second vibration-damping body 4".

Further, Minamidate discloses that "the vibration will then be transmitted to the third vibration member 7 via the sleeve 6. Experiment has shown that this body 7 has a vibration phase approximately inverse to the vibration phase of the vibration-damping body formed by member 1, and is substantially balanced by the other components to cancel out the hand-grip vibrations..." (page 2, lines 44-52).

From the above disclosure, it follows that the tie-rod may not be constructed in such a way that it avoids transmission of vibrations. Otherwise, it would not follow the invention described in Minamidate. Even if the tie-rod were a piano wire, it may not be movable in such a sense that it would avoid transmission of vibrations, because "...the second and third vibration-damping bodies 4 and 7 perform vibration movements..." (page 2, lines 62-64). The tie-rod, therefore, must be provided with a sufficient rigidity to transmit vibrations. This is affirmed in Minamidate on page 2, lines 69-71, which provides that "the first connecting member and the second connecting member are made of reasonably rigid material". The term "first connecting member" is defined on page 1, lines 101-106 and is equivalent to the tie-rod.

Therefore, the Applicants respectfully submits that the practitioner of ordinary skill in the art would not be lead to the present invention from the cited reference combination, when this combination fails to provide or suggest the essential features of the invention as defined in amended claim 1. The

Applicants therefore request withdrawal of the rejections under 35 U.S.C. 103 and reconsideration of the claims as herein amended.

In light of the foregoing amendments and argument in support of patentability, the Applicants respectfully submit that this application now stands in condition for allowance. Action to this end is courteously solicited.

Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,


Michael J. Striker
Attorney for Applicant
Reg. No.: 27233
103 East Neck Road
Huntington, New York 11743
631-549-4700

Amend as follows:

IN THE CLAIMS:

1. A hand power tool, comprising a housing; at least one handle having at least one gripping part; at least one elastic, vibration-damping element; a mounting part mounted on said elastic element; [a] said at least one gripping part being mounted on said housing through said elastic element and through said mounting element; and at least one [movable] safety element through which said gripping part is connected with said mounting part, said safety element being movable to avoid transmission of vibrations through the safety element during predetermined operation.
2. A hand power tool as defined in claim 1, wherein said safety element is formed as a [bendable] flexurally non-rigid part.
9. A hand power tool as defined in claim 1, wherein said safety element determines a maximum deviation of said elastic element from a base position in a direction selected from [the] a group consisting of a tilting direction, a displacing direction, and both.